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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,860	04/12/2004	Federico Cabrele	713-1121	1818

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05/08/2006

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EXAMINER

MITCHELL, KATHERINE W

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 05/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/821,860

Applicant(s)

CABRELE, FEDERICO

Examiner

Katherine W. Mitchell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1,2 and 4-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

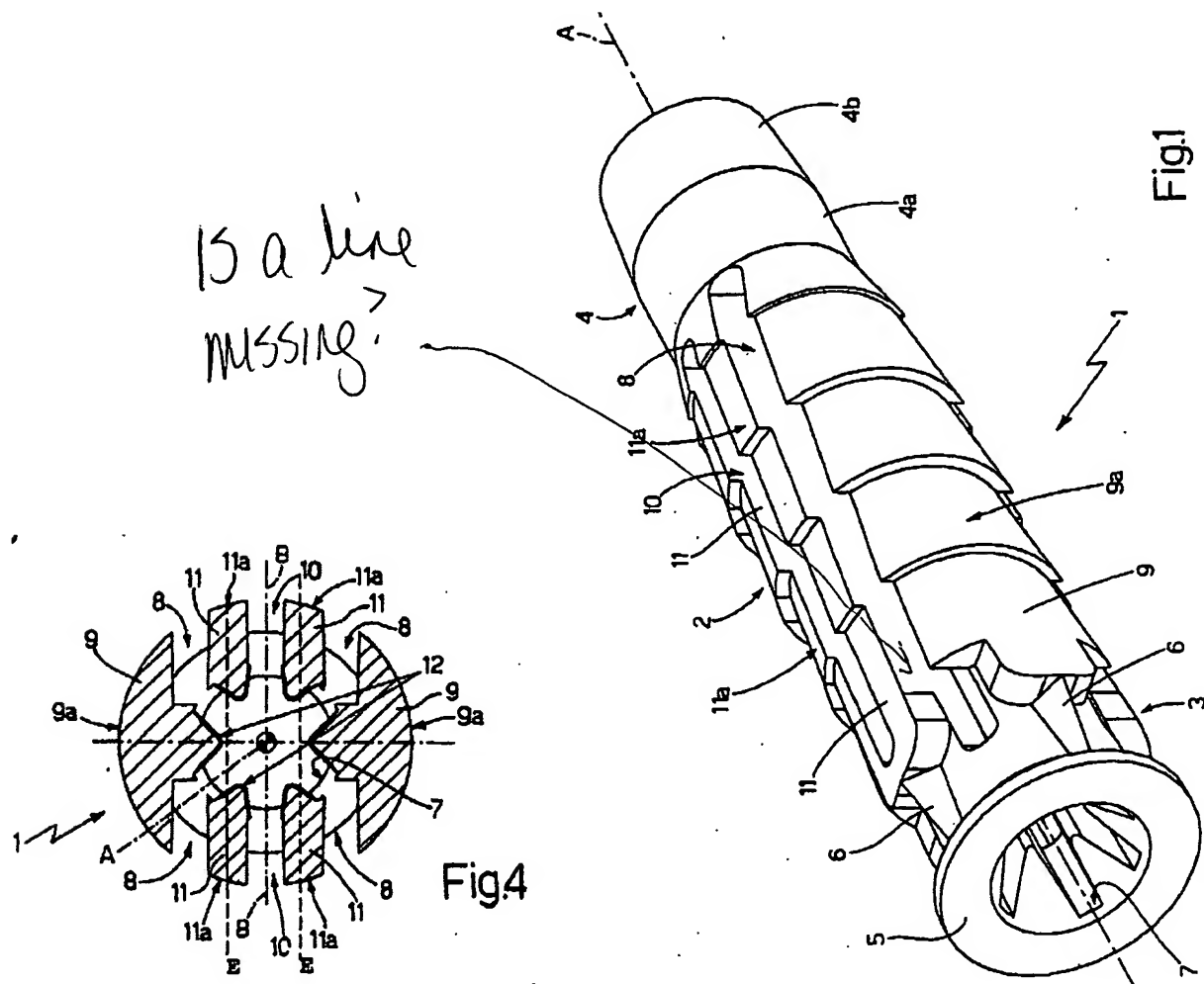
Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because examiner does not see how Fig 1 corresponds with Fig 4. Note that Fig 4, for example, clearly shows that secondary tongue 11 has a "thickness" or "depth" (material dimension from outer circumference toward axis A), but this is not clear in Fig 1 -- perhaps a line is missing.



Also, In Fig 1 above, "11" is used to point to both a secondary tongue and a slot?

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Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 9 and 14-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 recites the limitation "the slots of each pair" in line 2. There is insufficient antecedent basis for this limitation in the claim. Neither claim 9, or the claims from

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which it depends, claims 8 and 1, disclose **pairs** of main longitudinal slots, thus the slots of each pair is unclear - there could be 3 main longitudinal slots.

Re claim 14, what is meant by "each pair is arranged diametrically opposite the longitudinal axis"? Examiner assumes applicant means --wherein each respective tongue of a said mirror image pair is arranged diametrically opposite...--, as the pairs are not diametrically opposite each other. Claims 15-16 are rejected as depending from rejected claim 14.

Claim 17 is rejected, as "slot means" is indefinite. The word "means" is preceded by the word(s) "slot" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Claim 16 is unclear by what is meant by "which extend essentially radially with respect to the longitudinal axis". Examiner assumes, as in applicant's drawing, that this means that the slots are located radially away from the axis, and that the longitudinal extend is at a constant radius from the axis, as applicant's slots are not shown as essentially radial slots -- their main orientation is not radial, but longitudinal.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2,6-13, 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Vernet et al USP 5246323.

Re claims 1, 14: Vernet shows a screw anchor (3) with a deformable (expandable -abstract) central portion in which main longitudinal slots (MLS) (4 of the slots labeled "13") are formed, and further comprising secondary longitudinal slots (SLS) (the remaining 4 of the slots labeled "13") formed in said central portion. Examiner notes that 4 of the slots (13) are considered main (MLS) and the balance are considered secondary (SLS). The main longitudinal slots MLS extend essentially parallel to a plane on which a longitudinal axis of the screw anchor lies, and define deformable main longitudinal anchoring tongues (MLAT) which lie on opposite sides of the plane. Currently the embodiment of Fig 9 is being applied since it is clearer. However, note col 3 line 66 - col 4 line 2, which explicitly states that the slots 13 are in planes which may be inclined with respect to the axis OR which pass through the axis as in Fig 3. However, Fig 9 shows this most clearly, and note that col 5 lines 12-18 specifies that the only difference in the first and 2nd embodiments is the piercing means of the pin body -- the sleeve {anchor} are the same.

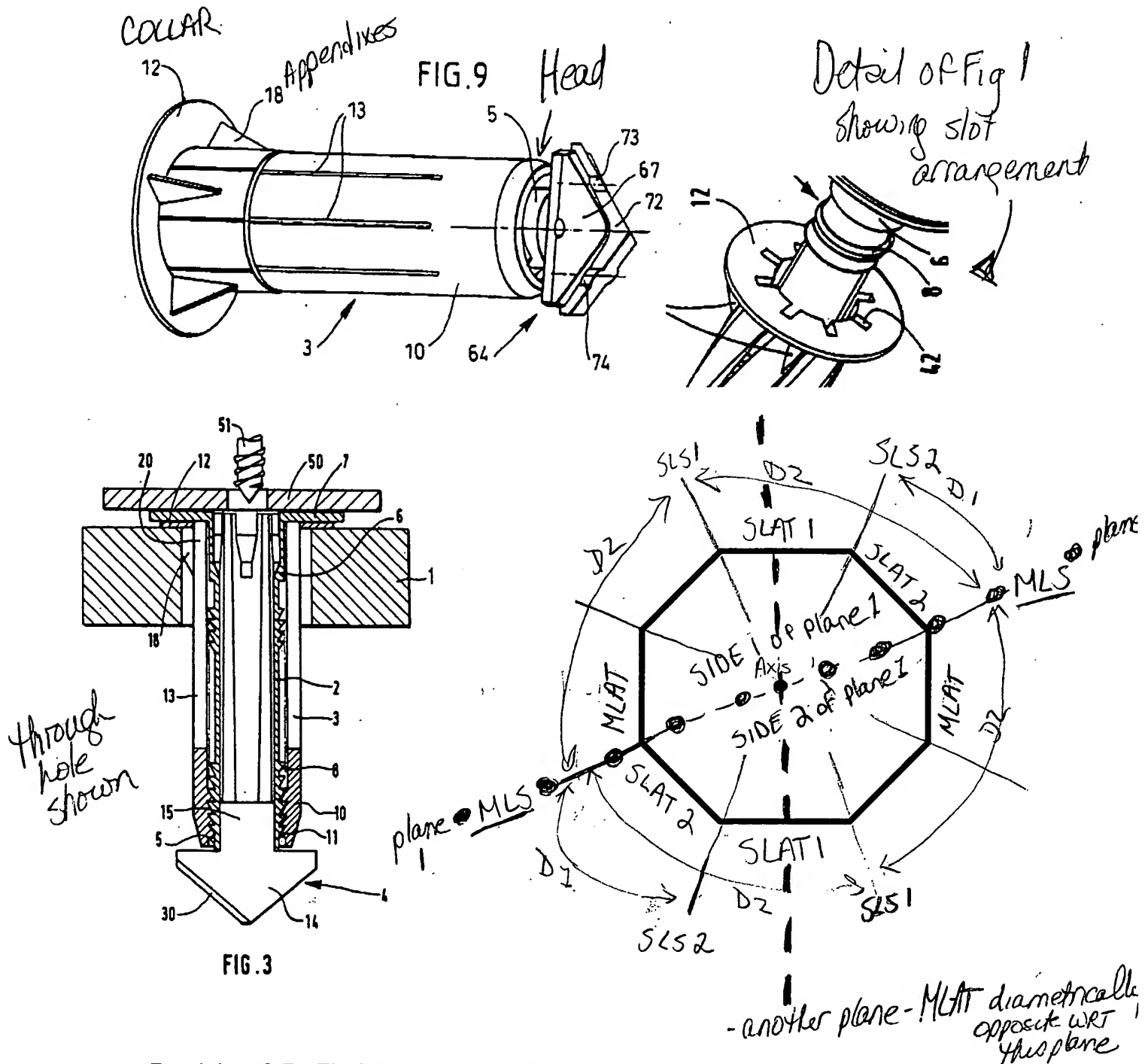
Re claim 2: The sections between a main and secondary slot or two secondary slots can be considered a deformable secondary longitudinal anchoring tongue (SLAT). (Col 4 lines 21-48)

Re claim 3: Pairs of main longitudinal slots (MLS) define main longitudinal anchoring tongues (MLAT) (strip between two "13's". There are 8 equally-spaced slots "13"

from (see detail of Fig 1 below)

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from Fig 1 below) - examiner has labeled an octagon below, with each corner representing a slot, with which slots are considered main and which are considered secondary.



Re claims 6-7: Fig 9 and col 3 lines 66-69 teach evenly angularly spaced slots.

Re claims 6-7: Fig 9 and col 3 lines 66-69 teach evenly angularly spaced slots.

Re claims 8-9: As best understood, referring to the numbering by examiner of the octagonal shape, representing the collar with 8 slots of Vernet, there are 4 SLS arranged in 2 pairs that are arranged in mirror image relationship with each other, and the SLS of each pair are parallel. Since examiner does not know of that there are "the slots of each pair" {implying at least 4??}, examiner is not sure what is being described. However, note equivalent Distances D1 and D2 on octagonal drawing, with each slot of pair SLS1 having equal distances from MLS as each slot of pair SLS2.

Re claims 10-12: a head with a collar at a first end, said collar with annular flange (12) coaxial with longitudinal axis as shown in Fig 9 above. Projecting appendices (18) are shown as equally spaced and integral with collar and parallel to longitudinal axis. There is a head (10) at opposite end.

Re claim 13: There is a hole (Fig 20 coaxial with longitudinal axis having a number of internal ribs parallel to said axis (see Fig 2).

Further re claim 14: Deformable main longitudinal anchoring tongues (MLAT) are arranged diametrically opposite one another with respect to the longitudinal axis of the anchor, and secondary longitudinal anchoring tongues (SLAT) are arranged in essentially mirror image pairs in which each pair is arranged diametrically opposite the longitudinal axis. (see marked up drawing above)

Re claim 15: MLATs are separated by MLS which extend essentially parallel to a plane on which the screw anchor axis lies, and wherein the MLAT lie on opposite sides of the plane.

Re claim 16: As best understood, pairs of SLATs are separated by SLSs which extend essentially radially with respect to the longitudinal axis.

Re claim 17: As best understood, Vernet shows a screw anchor comprising MLS **means** (see 112 rejection above) for defining MLTs wherein each tongue is located on an opposite side of a screw anchor axis plane, and SLS means for defining SLATs wherein pairs are configured so the anchoring tongues of each pair are located on opposite sides of the plane.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4 - 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vernet et al USP 5246323.

As discussed above, Vernet teaches all the limitations except a serrated profile on the 2ndary and main longitudinal tongues. Vernet Fig 6 shows such serrations (8), useful to limit the radial component of the screwing force, per col 4 lines 60-66.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Vernet before him at the time the invention was made, to modify Vernet's first embodiment, Fig 5, to include the serrations of Fig 6, second embodiment, in order to obtain improved radial expansion properties and thus enhance screw fixing.

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8. Claim 7 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of previous claim 6. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Response to Arguments

9. Applicant's arguments filed 2/23/2006 have been fully considered but they are not persuasive.

10. The only argument remaining after the amendment and rejection above is that of "double inclusion". Examiner has not used double inclusion. Vernet clearly has 8 slots. Had applicant claimed 8 main slots, and 8 secondary slots, then of course applicant would be correct that Vernet's 8 slots could not be used as both. However, applicant has claimed only an unspecified number of main slots, and an unknown number of pairs of secondary slots -- thus the reference must show at least 2 main slots and 2 pair, or 4, secondary slots. As was explained in the first action, and is reclarified above, each slot 13 of Vernet is used only once - each individual slot is EITHER a main or secondary slot, not both. Applicant has not claimed any structural distinguishing features of the main and secondary slots, and thus a single individual slot 13 of Vernet can be either a main or secondary slot. Examiner notes for expediency that the same is true of main and secondary tongues.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katherine W. Mitchell whose telephone number is 571-272-7069. The examiner can normally be reached on Mon - Thurs 10 AM - 8 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Katherine W Mitchell
Primary Examiner
Art Unit 3677

Kwm
5/1/2006

A handwritten signature in black ink, appearing to read 'K Mitchell', is written over the printed name and title.